

Appl. No. 09/482,023
Amdt. dated December 9, 2004
Reply to Office Communication of November 9, 2004

REMARKS/ARGUMENTS

Applicant acknowledges receipt of the Office Communication dated November 9, 2004, and appreciates the Examiner for allowing Applicant to file the appended new Appeal Brief. In the Office Communication, the Examiner: (1) noted that the statement of the status of the claims is deficient because the brief does not identify claims 37-40 as being presently under appeal; (2) noted that the concise statement of the issues presented for review is not completely accurate; (3) noted that the brief does not contain an argument which specifies the errors in each rejection under 35 U.S.C. 103; and (4) noted that claim 10 does not properly represent the group because claim 34 appears to be broader than claim 10.

I. Interview Summary

A telephonic interview took place on October 27, 2004 between Applicant's representative, Collin Rose (47036), and Examiner Ridley. Claims 37-40 were discussed, and no prior art was discussed. Applicant wished to contact Examiner Ridley so that the amendment filed on September 28, 2004 would not be entered in view of 37 CFR 1.191. Claims 37-40 were mistakenly canceled in the September 28, 2004 amendment based on the belief that claims 37-40 must be twice or finally rejected to be timely appealed. Since claims 37-40 remain pending in the application which also contains claims that are twice or finally rejected, claims 37-40 are timely appealed under 37 CFR 1.191. Examiner Ridley agreed not to enter the September 28, 2004 amendment, and requested that Applicant file a new Appeal Brief including claims 37-40 and correcting other issues identified in the November 9, 2004 Communication.

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II. Actions Taken in the Present Office Communication Response

With this Office Communication Response, Applicant takes the following actions:

Applicant adds claims 37-40 to presently pending and appealed claims under the Status of the Claims. Appropriate revisions have been made to the appended Appeal Brief, including correcting the statement of the status of all the claims in the application and correcting the Grouping of Claims to include claims 37-40.

The concise statement of the issues presented for review has been corrected to list the rejection of claims 31, 32 and 35 under 35 U.S.C. 103(a) as being unpatentable over Admitted Prior Art in view of *Takada et al.* and in further view of *Haneda et al.* This correction can be found in the appended revised Appeal Brief.

Applicant believes claim 10 may be broader than claim 34 because claim 34 is limited by the specific shape of the gasifier throat whereas claim 10 is not. However, it is of negligible effect whether claim 10 or claim 34 represents the group of claims including 10, 15, 17-20, 31, 32, 34 and 35, and so as to expedite having the appended Appeal Brief in condition for review, Applicant now identifies claim 34 as representing the group. Appropriate revisions are found in the appended Appeal Brief.

Other corrections have been made to the appended Appeal Brief so that the brief is fully responsive to the prior Office Communications, including arguments pertaining to each rejection under 35 U.S.C. 103.

Applicant respectfully requests reconsideration of the issues presented in the Office Communications of August 24, 2004 and November 9, 2004, and acceptance of the Appeal Brief

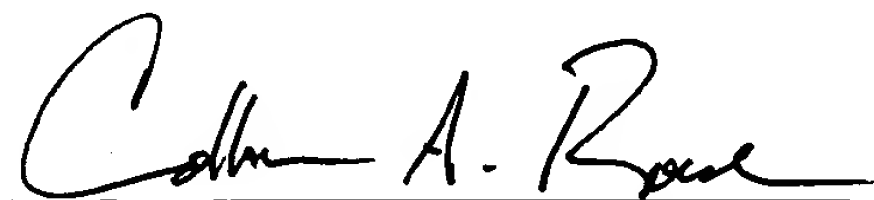
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as appended hereto. If the Examiner feels that a telephone conference would expedite the resolution of this case, she is respectfully requested to contact the undersigned.

In the course of the foregoing discussions, Applicant may have at times referred to claim limitations in shorthand fashion, or may have focused on a particular claim element. This discussion should not be interpreted to mean that the other limitations can be ignored or dismissed. The claims must be viewed as a whole, and each limitation of the claims must be considered when determining the patentability of the claims. Moreover, it should be understood that there may be other distinctions between the claims and the prior art which have yet to be raised, but which may be raised in the future.

If any fees are inadvertently omitted or if any additional fees are required or have been overpaid, please appropriately charge or credit those fees to Conley Rose, P.C. Deposit Account Number 03-2769 (Atty. Docket No. 1927-00101).

Respectfully submitted,



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